

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
2004 Biennial Regulatory Review	)	WC Docket No. 04-179
Regulations Administered by the	)	
Wireline Competition Bureau	)	

**AT&T COMMENTS**

Pursuant to the Commission's May 11, 2004 Public Notice (FCC 04-105), AT&T Corp. (AT&T) submits these comments in connection with the Commission's 2004 comprehensive biennial review in accordance with Section 11 of the Communications Act (47 U.S.C. § 161) of regulations administered by the Wireline Competition Bureau ("Bureau").

Although the Commission has initiated the current proceeding, its long-running 2002 biennial review of regulations administered by the Bureau has yet to be completed.<sup>1</sup> As a result, the rule revisions addressed there -- including, most significantly, modifications to the Commission's rules that are essential to the preservation of competition in the local exchange marketplace -- remain unresolved.

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<sup>1</sup> See *The Commission Seeks Public Comment in the 2002 Biennial Review of Telecommunications Regulations Within the Purview of the Wireline Competition Bureau*, Public Notice, WC Docket No. 02-313 (rel. Sept. 26, 2002)(initiating 2002 biennial review). After receiving comments, the Bureau released a staff report with recommendations for modification or repeal of certain Commission rules. See *Wireline Competition Bureau, Biennial Regulatory Review 2002*, Staff Report, WC Docket No. 02-313, GC Docket No. 02-390, DA 03-804 (dated Dec. 31, 2002) ("Staff Report"). The Commission then adopted interpretive rulings on issues raised by the Staff Report, and that decision was affirmed on appeal. See *2002 Biennial Regulatory Review*, GC Docket No. 02-390, Report, FCC 02-342 (rel. March 14, 2003), *aff'd*, *Cellco Partnership v. FCC*, 357 F.3d 88 (D.C.Cir. 2004). Earlier this year, the Commission initiated a rulemaking proceeding to address the proposals raised in the Staff Report. *Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau*, WC Docket No. 02-313, Notice of Proposed Rulemaking, FCC 03-337 (rel. January 12, 2004)("2002 NPRM"). The comment cycle in that proceeding was completed this past May, but to date the Commission has not issued any rulings in that matter.

Particularly in light of the serious damage to nascent local competition caused by the Court of Appeals' decision on the Commission's *Triennial Review Order*, it is imperative that the Commission move forward expeditiously to complete its 2002 biennial review, and to adopt those rule revisions, to avoid diverting staff resources from those critical tasks in the instant proceeding.

Specifically, the 2002 *NPRM* (§§ 19-20) requested comment on changes to further strengthen the Commission's rules requiring notice from incumbent local exchange carriers ("ILECs") of network changes involving retirement and replacement of copper loops and subloops. The Commission there sought comment on whether current Section 51.329(c) of its rules should be modified to require that ILECs "add[] specific titles to identify notice of replacement of copper loops or copper subloops" with fiber-to-the-home ("FTTH") loops.

As AT&T and other parties showed in that proceeding, competitive local exchange carriers ("CLECs") are critically dependent on such ILEC copper facilities, particularly for broadband service offerings. Requiring ILECs specifically to identify notices of replacement of copper loops and subloops will better allow competitors promptly to focus on such notices which have crucial impact on their ability to continue serving broadband customers.<sup>2</sup> Providing more timely and usable information about ILECs' planned network changes in this manner will also impose no significant burden

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<sup>2</sup> See AT&T Reply Comments in 2002 *NPRM*, filed May 3, 2004, at 6-7. (A copy of AT&T's filing in that proceeding is attached to these comments for the convenience of the Bureau staff.) The Commission should also facilitate CLECs' ability expeditiously to identify the ILEC replacement notices for these loops and subloops by prescribing uniform labeling practices and separate notices for elimination of copper loops and changes from copper to hybrid copper/fiber loops. *Id.* at 7.

on those carriers. It is therefore abundantly clear that this revision of Section 51.329(c) should be implemented without further delay.

Moreover, as the record in the 2002 *NPRM* confirms, even with revision in the form and content of ILEC notices CLECs still face enormous and unwarranted burdens in using such information effectively due to the extremely short timeframe (just 9 business days following public notice for copper loop replacements) in which to analyze those filings and to file objections to such network changes. Accordingly, the Commission should, at a minimum, require that ILEC notices of all copper loop retirements be provided directly to potentially affected CLECs.<sup>3</sup> More fundamentally, because even with more targeted information the current abbreviated notice periods for retirements and filing objections are calculated to create severe service disruptions for CLECs and their customers, the Commission should revise the current notice periods for ILEC copper loop and subloop replacements and for filing objections to such ILEC network changes.<sup>4</sup>

Taken together, the revisions to current practices discussed above will better permit CLECs to evaluate these proposed ILEC network changes, to file objections with the Commission where warranted, and to formulate and implement appropriate alternative service arrangements for their customers where necessary. The Commission should adopt these modifications to its rules immediately to preserve broadband

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<sup>3</sup> *Id.* at 8. Such notices should also provide circuit-specific identification to the individual CLECs potentially affected by those proposed changes in the ILECs' facilities. *Id.*

<sup>4</sup> *Id.* at 9-10.

competition, and should not permit this aspect of its 2002 biennial review to be further delayed while it turns its scarce administrative resources to addressing the 2004 review.<sup>5</sup>

Respectfully submitted,

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<sup>5</sup> AT&T also showed in the 2002 review that the Commission should adopt modifications to its jurisdictional separations, universal service, and access charge rules proposed in the *2002 NPRM*, and that the separations rules should be further clarified to bring them into alignment with universal service regulations. *See* AT&T Reply at 11-14. AT&T also show (*id.* at 14-17) that to promote the objective of free entry and exit from telecommunications markets the Commission should eliminate entirely the current public notice requirement for non-dominant domestic carriers' Section 214 discontinuance notices or, in the alternative, should prescribe a rigorous time limit for the issuance of such public notices. There is likewise no reason for further delay in adopting the foregoing revisions to the Commission's rules.